

GAHC010081142023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/2188/2023

ASHOK CHANDRA SARMA AND 6 ORS
S/O- LATE ROMESH CH. SARMA,
RESIDENT OF KRISHNA APARTMENT, A- 402,
CHANDMARI FLYOVER (WEST SIDE),
GUWAHATI- 781003,
DISTRICT- KAMRUP(M), ASSAM.

2: BHOBEN KUMAR DUARI
S/O LT. RUPESWAR DUARI

RESIDENT OF JATIYA BYE LANE - 3

HOUSE NO. 19
KAHILIPARA ROAD

DISPUR
GUWAHATI
ASSAM- 781006.

3: PRADYUMNA KUMAR DEKA
S/O LATE TARANI KANTA DEKA

RESIDENT OF SHANTI ENCLAVE
FLAT NO. H05

PANJABARI NAMGHAR PATH
GUWAHATI

KAMRUP(M)
ASSAM- 781037.

4: KIRAN CHANDRA BHUYAN
S/O- LATE GHANA KT. BHUYAN

RESIDENT OF KRISHNA APARTMENT
FLAT NO. B-104

CHANDMARI
GUWAHATI
KAMRUP(M)

ASSAM- 781003.

5: PARIKSHIT TALUKDAR
S/O- LATE MAHI NATH TALUKDAR

RESIDENT OF HOUSE NO. 187
JAPORIGOG

NEAR LAKSHMI MANDIR
GUWAHATI

P.O./ P.S.- DISPUR
KAMRUP(M)

ASSAM- 781005.

6: RAJENDRA NATH SARMA
S/O- LATE RAJAT CH. SARMA

RESIDENT OF R.K. MISSION ROAD

ULUBARI
GUWAHATI
DISTRICT- KAMRUP(M)

ASSAM- 781016.

7: DIPAK KUMAR SAHA
S/O- LATE AJIT KUMAR SAHA

RESIDENT OF HOUSE NO. 14/A
BYE LANE- 5

SHREE BHUMI NAGAR
ADAGUDAM

P.O.- ODAL BAKRA
GUWAHATI

DISTRICT- KAMRUP(M)
ASSAM- 781034

VERSUS

ASSAM POWER DISTRIBUTION COMPANY LIMITED AND 6 ORS
REPRESENTED BY ITS CHAIRMAN,
BIJULEE BHAWAN, PALTAN BAZAR,
GUWAHATI-1.

2:ASSAM POWER GENERATION CORPORATION LIMITED
REPRESENTED BY ITS CHAIRMAN

BIJULEE BHAWAN
PALTAN BAZAR

GUWAHATI-1.

3:ASSAM ELECTRICITY GRID CORPORATION LIMITED
REPRESENTED BY ITS CHAIRMAN

BIJULEE BHAWAN
PALTAN BAZAR

GUWAHATI-1.

4:THE MANAGING DIRECTOR
ASSAM POWER DISTRIBUTION COMPANY LIMITED
BIJULEE BHAWAN
PALTAN BAZAR

GUWAHATI-1.

5:THE MANAGING DIRECTOR
ASSAM POWER GENERATION CORPORATION LIMITED
BIJULEE BHAWAN
PALTAN BAZAR

GUWAHATI-1.

6:THE MANAGING DIRECTOR
ASSAM ELECTRICITY GRID CORPORATION LIMITED
BIJULEE BHAWAN
PALTAN BAZAR

GUWAHATI-1.

7:THE CHIEF GENERAL MANAGER (HRA)
ASSAM POWER DISTRIBUTION COMPANY LIMITED
BIJULEE BHAWAN

PALTAN BAZAR

GUWAHATI-1

Advocate for the Petitioner : MR. P J SAIKIA, SR. ADV

Advocate for the Respondent : SC, APDCL

BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

01.04.2024

Heard Mr. P.J. Saikia, learned Senior Counsel for the petitioner. Also heard Mr. D. Nath, learned Standing Counsel, Assam Power Generation Corporation Limited (APGCL), Mr. S. Katakya, learned Standing Counsel, Assam Electricity Grid Corporation Limited (AEGCL).

2] This writ petition is filed by the 7 (seven) writ petitioners amongst whom the petitioner nos.1, 2, 3 & 4 were the employees of Assam Power Distribution Company Limited (APDCL), the petitioner nos. 5 & 7 were the employees of Assam Power Generation Corporation Limited (APGCL) and the petitioner no.6 was the employee of Assam Electricity Grid Corporation Limited (AEGCL). The grievance of the petitioners are that pursuant to a meeting held in the APDCL Board on 22.11.2017 in the presence of the nominee of the Finance Department of the Government of Assam, it was decided by the Board that the benefits of the Assam Services (Revision of Pay) Rules of 2017 as had been granted by the State

Government with effect from 01.01.2016 is required to be granted to the employees of these Corporation as well and accordingly, the benefits on an interim basis was granted from 01.04.2016. It was further decided in the meeting that a Committee of the Managing Directors (MD) of APDCL, APGCL & AEGCL be constituted to examine the implications of giving effect to the ROP from 01.01.2016 as recommended by the Pay Committee. This decision although taken in the minutes of the meeting of the APDCL Board's held on 22.11.2017, the same was duly approved by the Board of APDCL, APGCL and AEGCL and accordingly, a committee of Managing Directors of the 3 (three) Corporations was constituted. Since no specific orders thereafter have been passed in terms of the decision taken by the APDCL Board's meeting held on 22.11.2017, the petitioners have approached this Court praying for appropriate directions or orders.

3] The order dated 15.05.2023 passed by the Coordinate Bench of this Court reflects that during the course of hearing of the matter, a copy of the minutes of the meeting was placed before the Court and the same is kept in the case record as document "X". However, no counter affidavit has been filed by the respondents. On subsequent dates it is submitted before the Court that the resolution adopted by the said committee of 3 (three) Managing Directors have decided to place the matter before the Power Department, Government of Assam to take it up with the Government for financial support as a total amount of Rs.77,59,17,310/- will be the

total financial implications for all the three companies if the benefit of pay commission is to be given with effect from 01.01.2016.

4] Mr. D. Nath, learned Standing Counsel, APGCL submits that although the matter has been placed before the Power Department, no conclusive instructions have been received either accepting or rejecting the proposal for financial support by the Government.

5] Mr. P.J. Saikia, learned Senior Counsel for the petitioners submits that pursuant to the decision dated 22.11.2017 which was adopted in the minutes of the APDCL Board meeting for constitution of the Committee of 3 (three) MDs, it is evident that the Committee will only examine the matter and thereafter, their decision is required to be placed before the Board of Directors of the respective Companies but the same has not been done. He further submits that as on date the Board of Directors of the APDCL, APGCL & AEGCL neither have accepted the suggestion of the committee nor have the Board of Directors taken up the issue for necessary instructions from the appropriate Department in the Government for Financial Assistance. This said submission is not disputed by the learned counsel representing the Corporations as the learned counsel for the respondents submit that his instructions to that effect is still awaited.

6] Under such circumstances, this Court is of the considered view that since the Committee of 3 (three) Managing Directors of the respective Corporations have

already taken a decision vide its meeting held on 10.05.2023 in respect of examining the implications for giving effect of the ROP benefits from 01.01.2016 as per the recommendation of the pay committee, the matter be now required to be considered by the respective Board of Directors of the respective Corporations and thereupon, shall pass effective orders in respect of the claims of grant of Pay Commission benefits with effect from 01.01.2016. If the Board of Directors of the respective Corporations are of the considered view that the adequate financial support is necessary from the Government, they are at liberty to take up the issue with the appropriate Department of the Government. Accordingly, the writ petition stands disposed of at this stage directing the respondent Corporations, namely, APDCL, APGCL & AEGCL to place the issue before their respective Board of Directors and the Committee of the 3 (three) Managing Directors shall consider the matter in respect of grant of benefits of pay with effect from 01.01.2016 of the respective employees of the Corporations. The Board of Directors in each of the Corporations will thereafter take an appropriate decision in the matter and communicate the same to the respective employees including the writ petitioners. The said decision be taken by the respective Board of Directors of the respective Corporations within a period of 60 (sixty) days from the date of receipt of a certified copy of this order. While disposing of the writ petition, this Court is conscious of the fact that the petitioners before this Court have already superannuated from service between 01.01.2016 to 31.03.2016. The petitioners

are before this Court claiming the benefit of the Revision of Pay by the Pay Commission with effect from 01.01.2016. The Board of Directors of the 3 (three) companies while considering the financial implications will also examine this implication from the stand point of the financial burden likely to be incurred in the cases of those employees who have superannuated between 01.01.2016 to 31.03.2016. The Board will give due consideration to the claims of the writ petitioners and other such employees, who have superannuated from 01.01.2016 to 31.03.2016, while taking into account the minutes of the meetings held by the 3 (three) Managing Directors of the APDCL, APGCL & AEGCL and passing effective orders thereon.

7] With the above observations, the writ petition stands disposed of.

JUDGE

Comparing Assistant